

**REMARKS/ARGUMENTS**

Reexamination of the captioned application is respectfully requested.

**A. CLAIMS 2 AND 10 ARE STILL PENDING**

The undersigned apologizes that the listing of claims included in the Request for Reconsideration filed December 12, 2007 inadvertently incorrectly listed claims 2 and 10 as being “cancelled”. Previously claims 2 and 10 had been continually pending, and the Request for Reconsideration stated that no claims were amended by it. Indeed, many dependent claims appearing in the claim listing of the Request for Reconsideration depended from claims 2 and 10 (and such dependent claims drew no objection under 35 USC section 112). Therefore, it is clear that the listing of the Request for Reconsideration was an editorial error, and that no substantive amendment or cancellation occurred by the Request for Reconsideration. Accordingly, the present document re-includes claims 2 and 10 in like manner as they should have been listed in the Request for Reconsideration filed December 12, 2007. If such inclusion causes formatting or other problems, please treat the foregoing as a request to add new claims corresponding to previously pending claims 2 and 10.

**B. PATENTABILITY OF THE CLAIM**

Enumerated paragraph 6 of the Final Office Action alleges that Applicants previously pending claims failed to show certain argued features, such as “the preliminary portion of the handover sequence is followed by another portion of the handover sequence when the need for the handover is definitively determined”. Applicants respectfully disagree, inasmuch as (for example) the “when the need for the handover is definitively determined” has been subsumed in Applicants’ limitations concerning the second measurement report. However, as an accommodation and not by

way of acquiescence, Applicants have amended independent claims 1, 2, 9, and 10 to specify:

- (1) Receipt of a first measurement report “which indicates a probability that the specified mobile station will engage in soft handover”; and
- (2) Receipt a first measurement report “which confirms that it is time for actual soft handover to be performed for the specified mobile station”.

Limitation (1) above is supported by, e.g., page 10, lines 16 – 20; page 11, lines 8+; line 11, lines 28+; page 13, lines 21+. Limitation (2) above is supported by, e.g., page 15, lines 27+; page 19, lines 20+; page 21, lines 28+; and page 22, lines 14+.

Moreover, as amended, all independent claims now explicitly refer to soft handover.

Applicants further incorporate herein all remarks set forth in the December 12, 2007 Request for Reconsideration, as well as the first Pre-appeal Brief Request for Review. Selected points explicitly repeated in these remarks are the following:

Applicants’ technology relates to “handover” of a cellular call (“connection”) involving a mobile station, the handover of the call being from a source base station to a destination base station. Applicants particularly provide an anticipatory mechanism for a handover sequence in which a time-intensive “preliminary portion” of the handover sequence can be first performed (e.g., before the need for handover is definitively determined). The “preliminary portion” of the handover sequence is then followed (e.g., when the need for the handover *is* definitively determined) by the “another portion” of the handover sequence. The different portions of the handover sequence are initiated by different measurement reports of signal strength of a pilot signal from the destination base station as perceived by the mobile station involved in the handover. Bifurcating the

handover sequence into two portions essentially allows Applicants to get a “jump” on the handover process.

U.S. Patent 5,920,550 to Willey is primarily concerned with specifying best base stations suitable for handoff in the Active Set and providing current information on pilot signal strengths for soft handoff (*see, e.g., 3:16 et seq., and col. 3, lines 34 et seq.*). What Willey describes therefore, is soft handover from a first Active Set to a second Active Set.

Unlike Applicants’ independent claims, Willey does not have two measurement reports that pertain to soft handover. It is clear from Willey col. 5 that the first Active Set is created according to the first set of measured pilot strengths (col. 5, lines 16 – 19). Willey’s operation continues unfettered until more current measurements indicate that a new Active Set (different from the first Active Set) is necessary (col. 5, lines 23 *et seq.*). Only upon receipt of the second set of measurement pilot strengths (which are different than the first set of measurements) does Willey even contemplate handoff, and in so doing at this juncture allocates the second Active Set (*see, e.g., col. 5, lines 41 et seq.*).

Thus, it is only one measurement report (the second measurement report, being different from a previous measurement report) that even arguably prompts Willey’s soft handoff of Active Sets. Willey’s first measurement report does not cause Willey to prepare a destination base station for a soft handoff. In fact, if Willey’s measurements do not indicate that a different Active Set is not necessary, Willey’s method simply ends! *See, e.g., col. 5, lines 41 et seq.* This confirms that Willey’s first measurement plays no role at all in triggering a handoff.

Willey thus lacks any initiating at the destination base station of a preliminary portion of a handover sequence in response to a first measurement report, particularly

since the first measurement report must be distinct from a second measurement report which initiates another portion of the handover sequence.

Moreover, Willey does not describe any handover activity at a destination base station at all! All that can be discerned from Willey is that one base station communicates a different Active Set when necessary. Willey does not describe what activities (much less handover activities) occur at a base station newly included in the Active Set. And certainly Willey does not describe that communications with a newly included base station in the Active Set involves both a preliminary portion of a handover sequence and another portion of the handover sequence. Nor does Willey teach or suggest that plural portions of the handover sequence at the base station newly included in the Active Set occur in response to separate measurement reports.

U.S. Patent 6,246,673 to Tiedmann does not remedy the defective rejection. As previously stated, actions taken by Tiedemann in the passage cited (col. 17, lines 28 – 49) all appear to occur after a decision has already been made to perform handover. The passage describes a flowchart showing steps of a method of establishing handoff of a mobile station from an asynchronous serving base station (BTS1) to a synchronous target base station (BTS2). See, col. 16, lines 60+. Tiedemann's use of a pilot signal as described in this passage is not to trigger a bifurcated portion of a handover, but rather to locate the pilot signal so that the mobile station (coming from an asynchronous serving base station) can have an accurate estimate of the CDMA system time for a synchronous base station (see col. 17, lines 8 – 10). Use of such timing error correction as described by Tiedemann may be a matter of synchronization, but is not taught by Tiedemann to be in a separate portion of a handover sequence which is separately triggered by a different (subsequent) measurement report of pilot signal strength.

**C. MISCELLANEOUS**

In view of the foregoing and other considerations, all claims are deemed in condition for allowance. A formal indication of allowability is earnestly solicited.

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

Should the Examiner feel that an interview with the undersigned would facilitate allowance of this application, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:           /H. Warren Burnam, Jr./            
H. Warren Burnam, Jr.  
Reg. No. 29,366

HWB:lsb  
901 North Glebe Road, 11<sup>th</sup> Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100